

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY PANAMA IMMEDIATE

C O N F I D E N T I A L STATE 037066

CANALNEGS

E.O. 11652: GDS

TAGS: PFOR, PN

SUBJECT: U.S. PANAMA TREATY NEGOTIATIONS: ACTIVITIES REPORT

I.

THIS IS MESSAGE NO. 4 FROM THE DEPARTMENT APPLICABLE TO
THE FEBRUARY 1977 NEGOTIATIONS IN PANAMA, DESPATCHED FROM
ARA/PAN AT 5:30 P.M. ON FEBRUARY 17.

II. BRIEFING ITEM.

THE DEPARTMENT HAS BEEN REQUESTED TO USE THE CANALNEGS
TO TRANSMIT THE FOLLOWING LETTER TO AMBASSADORS BUNKER
AND LINOWITZ.

BEGIN QUOTE DEPARTMENT OF THE ARMY, OFFICE OF ASSISTANT
SECRETARY, WASHINGTON D.C. 20310

HONORABLE ELLSWORTH BUNKER, AMBASSADOR AT LARGE, CHIEF
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NEGOTIATOR FOR U.S.-PANAMA TREATY NEGOTIATIONS, DEPART-
MENT OF STATE, WASHINGTON, D.C. 20520

HONORABLE SOL M. LINOWITZ, CHIEF NEGOTIATOR FOR U.S.-
PANAMA TREATY NEGOTIATIONS, DEPARTMENT OF STATE,
WASHINGTON, D.C. 20520

DEAR AMBASSADORS BUNKER AND LINOWITZ:

(C) THE PANAMA CANAL NEGOTIATIONS WORKING GROUP (PCNWG), IN RESPONSE TO YOUR LETTER OF FEBRUARY 11, 1977, HAS REVIEWED THE DRAFT NEUTRALITY LANGUAGE AND WOULD PROPOSE CERTAIN CONCEPTUAL CHANGES IN ADDITION TO MINOR LANGUAGE CLARIFICATIONS AS INDICATED IN THE ATTACHMENT.

(C) WE UNDERSTAND THAT THE TREATY WILL, AS A MINIMUM, CONTAIN PROVISIONS TO ENSURE THAT THE UNITED STATES AND PANAMA AGREE THAT THE NEUTRALITY OF THE CANAL WILL CONTINUE BEYOND THE TERMINATION OF U.S. OPERATIONS AND EACH COUNTRY COMMITS ITSELF TO PROTECT AND DEFEND THE CANAL AFTER THE TERMINATION OF U.S. OPERATIONS.

(C) REFERENCES TO VESSELS OF COMMERCE AND WAR IN PARAGRAPHS 1 AND 3(A) ARE CHANGED TO BROADEN COVERAGE TO ALL VESSELS, INCLUDING, FOR EXAMPLE, PLEASURE CRAFT AND SCIENTIFIC AND RESEARCH VESSELS. IN ADDITION, THE WORD "TOLL" HAS BEEN DELETED THROUGHOUT THE DRAFT AND REPLACED BY THE WORDS "CHARGED OF TRAFFIC." "CHARGES OF TRAFFIC" WOULD INCLUDE ALL FEES INVOLVED IN A CANAL TRANSIT AS WELL AS THE ACTUAL TOLLS.

(C) THERE IS SIGNIFICANT DISAGREEMENT CONCERNING THE APPROPRIATENESS OF RETAINING PARAGRAPH 3(C) OF YOUR DRAFT. IT, THEREFORE, HAS NOT BEEN INCLUDED IN THE ATTACHED PROPOSAL PENDING RESOLUTION. WHILE IT WAS INCLUDED IN THE SEPTEMBER 1975 POSITION, SUBSEQUENT REVIEW
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RAISES CONCERN THAT IT REPRESENTS A SIGNIFICANT WEAKENING OF THE NON-DISCRIMINATORY CHARACTER OF THE TREATY.

(C) WITH REGARD TO PARAGRAPH 3(D) OF YOUR DRAFT, SINCE THE THOMPSON-URRUTIA TREATY GUARANTEES COLOMBIA RIGHTS OTHER THAN THOSE REFERRED TO IN THAT PARAGRAPH, THE DISPOSITION OF THOSE RIGHTS MUST BE ADDRESSED. THE LANGUAGE PROPOSED WOULD COMMIT PANAMA TO EXTEND TO COLOMBIA THE RIGHTS AND PRIVILEGES GUARANTEED TO COLOMBIA BY THE UNITED STATES AFTER THE UNITED STATES NO LONGER OPERATES THE CANAL.

(C) THE PCNWG BELIEVES THAT ADDITIONAL RULES OF NEUTRALITY WILL HAVE TO BE INCLUDED IN THE FINAL PERMANENT NEUTRALITY PROVISIONS TO COVER SUCH DEFENSE INTERESTS AS: 1) OPEN ACCESS IN TIMES OF WAR AS WELL AS PEACE; 2) PRIORITY TRANSIT OF VESSELS OF WAR; 3) LIMITED INSPECTION RIGHTS; AND 4) FOR VESSELS OF WAR, NO REQUIREMENT TO STATE DESTINATION, ARMAMENT OR CARGO CARRIED.

(U) WE APPRECIATE THE OPPORTUNITY TO COMMENT UPON THIS MOST IMPORTANT ISSUE.

SINCERELY,

CHARLES R. FORD
CO-CHAIRMAN
PANAMA CANAL NEGOTIATIONS WORKING GROUP

1 INCL. AS END LETTER

BEGIN ENCLOSURE:
PROPOSED NEUTRALITY CONCEPTUAL AGREEMENT.

1. THE UNITED STATES AND PANAMA GUARANTEE THE PERMANENT NEUTRALITY OF THE CANAL AND EACH COUNTRY COMMITS ITSELF
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TO ASSURE THE CANAL'S NEUTRALITY DURING AND BEYOND THE PERIOD THE UNITED STATES OPERATES THE CANAL. THE UNITED STATES AND PANAMA AGREE TO ESTABLISH AND MAINTAIN THE FOLLOWING REGIME OF PERMANENT NEUTRALITY IN ORDER THAT THE CANAL SHALL REMAIN PERMANENTLY FREE AND OPEN TO ALL VESSELS OF ALL NATIONS ON TERMS OF ENTIRE EQUALITY SO THAT THERE SHALL BE NO DISCRIMINATION AGAINST ANY NATION, OR ITS CITIZENS OR SUBJECTS, CONCERNING THE CONDITIONS OR CHARGES OF TRAFFIC, OR OTHERWISE.

2. PANAMA, AS TERRITORIAL SOVEREIGN, DECLARES THE CANAL TO BE PERMANENTLY NEUTRAL.

3. THE FOLLOWING RULES OF NEUTRALITY SHALL APPLY TO THE OPERATION OF THE CANAL:

(A) THE RIGHT OF ALL NATIONS TO UNIMPEDED TRANSIT OF THEIR VESSELS OF WAR, TROOPS AND MATERIALS OF WAR, AS WELL AS THEIR VESSELS OF COMMERCE AND OTHER VESSELS, UPON PAYMENT OF REASONABLE AND NON-DISCRIMINATORY CHARGES OF TRAFFIC AND IN ACCORD WITH REASONABLE AND NON-DISCRIMINATORY REGULATIONS, SHALL BE A FUNDAMENTAL PART OF THE PERMANENT NEUTRALITY REGIME OF THE CANAL. THIS INCLUDES ANY TYPE OF VESSEL IRRESPECTIVE OF THE MEANS OF PROPULSION, CARGO OR ARMAMENT IT CARRIES.

(B) REGULATIONS OF TRAFFIC, IN ADDITION TO BEING NON-DISCRIMINATORY AND REASONABLE, SHALL BE LIMITED TO THOSE NECESSARY FOR SAFETY OF NAVIGATION AND THE SAFE AND EFFICIENT OPERATION OF THE CANAL AND SHALL BE IN ACCORDANCE WITH THE PRINCIPLES OF INTERNATIONAL LAW. VESSELS ENTITLED

TO SOVEREIGN IMMUNITY SHALL COMPLY WITH SUCH REGULATIONS
OF TRAFFIC BUT SHALL BE FREE FROM SEARCH AND INSPECTION.
CHARGES OF TRAFFIC SHALL BE JUST AND EQUITABLE AND IN
ACCORDANCE WITH THE PRINCIPLES OF INTERNATIONAL LAW.

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(C) UNTIL SUCH TIME AS THE UNITED STATES IS RELEASED FROM
ANY OBLIGATIONS IT HAS TO COLOMBIA UNDER THE THOMPSON-
URRUTIA TREATY OF APRIL 6, 1914, PANAMA AND THE UNITED
STATES AGREE TO HONOR THE CONTINUING OBLIGATIONS OF THAT
TREATY.

4. THE UNITED STATES AND PANAMA ALSO AGREE THAT NO OTHER
NATION SHALL OPERATE THE CANAL OR MAINTAIN MILITARY FORCES
IN PANAMA, EXCEPT AS THE UNITED STATES AND PANAMA OTHER-
WISE MUTUALLY AGREE. END ENCLOSURE.

3. ACTION ITEMS: NONE.
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Subject: U.S. PANAMA TREATY NEGOTIATIONS: ACTIVITIES REPORT I. THIS IS MESSAGE NO. 4 FROM THE DEPARTMENT APPLICAB
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